

Court of Appeals, State of Michigan

ORDER

People of MI v Jon Drew Heinz

Docket No. 284592

LC No. 04-024887 FH

Peter D. O'Connell
Presiding Judge

William C. Whitbeck

Bill Schuette
Judges

The Court orders that the delayed application for leave to appeal shall be TREATED as timely filed and reviewed on the merits even though it was not timely filed under either MCR 7.205(F)(3) or MCR 7.205(F)(4). See *People v Means*, 480 Mich 989 (2007), *People v McCoy*, 480 Mich 989 (2007), *People v Rodgers*, 480 Mich 989 (2007), and *People v Kipfer*, 480 Mich 990 (2007). Here, defendant was denied the effective assistance of appellate counsel because, even though counsel was appointed on June 8, 2006, counsel failed to understand that he was required to file the delayed application for leave to appeal within 12 months of the April 27, 2006, judgment of sentence under MCR 7.205(F)(3) or he was required to file the motion for jail credit within six months of the judgment. Contrary to counsel's assertion, the application was not timely under MCR 7.205(F)(3)(b), which applies only if the motion was filed within the initial 21-day appeal period. In this case, that 21-day appeal period expired on May 18, 2006, but counsel did not file the motion until about 13 months later.

Ronald D. Ambrose (P-45504), appointed counsel for appellant, shall pay to the Clerk of this Court, within 21 days of the certification of this order, court costs in the sum of \$250. Such costs are personal to the attorney and shall not be charged back to the County or to the State. See *People v Means*, 480 Mich 989 (2007), *People v McCoy*, 480 Mich 989 (2007), *People v Rodgers*, 480 Mich 989 (2007), and *People v Kipfer*, 480 Mich 990 (2007).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 25 2008

Date

Sandra Schultz Mengel
Chief Clerk